

Washington State Department of Transportation

FFY-2004

**Disadvantaged Business Enterprise**

**Interim Overall Goal and Goal Setting Methodology**

**Federal Aviation Administration**

The purpose of the overall goal is to achieve a “level playing field” for ready, willing and able Disadvantaged Business Enterprises (DBEs) seeking to participate in Washington State Department of Transportation (WSDOT), United States Department of Transportation (USDOT)-assisted contracts. WSDOT examined its programs and its relevant market, and then determined the amount of participation DBEs would be expected to achieve but for discrimination.

WSDOT requests approval of an interim goal setting methodology pursuant to 49 CFR §26.45 (f). WSDOT seeks to set its interim overall DBE goal on a project or grant basis goal for FAA-assisted contracts, as permitted by § 26.45(e)(2). Based upon guidance from FAA, WSDOT determined that the following approach best reflects the relative availability of DBEs in WSDOT’s local market to the maximum extent feasible given the data available, as well as avoids imposing undue burdens on non-DBEs. WSDOT is in the process of conducting an availability study to comply with Part 26, which will provide data for future goal setting. We anticipate that the study will be completed in time for setting goals for FFY 2005. WSDOT does not currently have accurate NAICS codes nor are there any historical data for these types projects. FFY 2004 will be the first year that WSDOT will be able to monitor the Aviation Division’s DBE utilization. This will also permit WSDOT to begin to compile accurate historical data and information that will be applied to the following federal fiscal year’s DBE goal setting methodology.

**Step 1:**

WSDOT first determined the scopes of the Aviation Division’s four planning projects for FFY 2004. These projects have the following potential DBE subcontracting opportunities:

1. Multiple Airport Layout Plans (APL): the federal apportionment for two contracts totals \$561,111 for 12 airports. The scopes of work for the studies were analyzed for potential DBE subcontracting opportunities, based upon the areas that are typically performed by the prime consultant and those that are subcontracted. The prime consultant’s performance is projected to comprise 67.42% of the contracted work, leaving 32.58% for subcontracting. Based upon a formula previously determined to be acceptable by FAA, the overall goal is 2.39%.

ALP Project: \$561,111 total dollars

\$378,324.84 (67.42%) is prime work

\$182,809.96 (32.58%) is subcontract work

Formula for ALP: [(total ALP DBE Primes/all ALP Primes) X \$378,324.84] +

[total ALP DBE subs/all ALP subs) X \$182,809.96] = \$\_\_\_\_\_ for ALP DBE's

ALP: [(0/669) X \$378,324.84] + [(69/669) X \$182,809.96] = \$0 + \$18,854.84  
= \$18,854.84 for DBE's

2. Pavement Condition Assessments (PCI): the federal apportionment for two contracts totals \$777,000 for 43 airports. The scopes of work for the studies were analyzed for potential for DBE subcontracting opportunities, based upon the areas that are typically performed by the prime consultant and those that are subcontracted. The prime consultant's performance is projected to comprise 62.04% of the contracted work, leaving 37.96% for subcontracting. Based upon the formula previously determined to be acceptable by FAA, the overall goal is 2.39%.

PCI Project: \$777,777 Total dollars

\$482,533 (62.04%) is Prime work

\$295,244 (37.96%) is Subcontract work

Formula for PCI: [(total PCI DBE Primes/all PCI Primes) X \$482,533] +

[total PCI DBE subs/all PCI subs) X \$295,244] = \$\_\_\_\_\_ for PCI DBE's

PCI: [(1/1984) X \$482,533] + [(61/1398) X \$295,244] = \$243.21 + \$12,882.61  
= \$ 13,125.82 for DBE's

3. Overall Goal for ALP & PCI Combined: \$1,338,888 Total Dollars

Formula: (\$ for ALP DBEs + \$ for PCI DBEs)/\$1,338,888

Overall DBE Goal: (\$18,854.84 + \$13,125.82)/ \$1,338,888 =  
\$31,980.66/\$1,338,888 = 2.39%

### **Step 2:**

The regulations require that WSDOT consider the current capacity of DBEs to perform work, measured by the volume of work DBEs have performed in recent

years, and evidence from disparity studies conducted anywhere within WSDOT's jurisdiction, to the extent it is not already accounted for in the base figure. There is no reliable information on past DBE participation on FAA-funded contracts, nor has a reliable disparity study been conducted in Washington State. The regulations permit consideration of evidence from "related fields" that affects DBEs, including statistical disparities in the ability of DBEs to obtain bonding, financing and insurance, and data on employment, self-employment, education, training and union apprenticeship. No such evidence is currently available to WSDOT and therefore the base figure of 2.39% was not adjusted.

WSDOT understands that during FFY 2004 additional FAA funds for airport construction and/or consulting services may become available. If those additional funds become obligated to identifiable projects, WSDOT will amend the current goal setting document and forward the amendment to FAA for review and approval.

#### **Race-Neutral/Race-Conscious Projection**

In order to determine a projection of race-neutral versus race-conscious participation, WSDOT attempted to gather DBE participation for prior federal fiscal years. To date, the Department cannot identify the race-neutral versus race-conscious participation in the Aviation Division's consultant services contracts because the data are not available or reliable. There was no contracting activity in FFY 2003. Moreover, FAA funds from FFY 2001 and FFY 2002 were reallocated and included with the FFY 2004 appropriation that forms the total FAA allocation for FFY 2004.

In a prior Aviation contract, a DBE consultant performed the entire PCI scope of work. Because the DBE was selected based upon its qualifications, this participation was entirely race-neutral. While it is possible that a DBE may again be selected as the prime consultant (although one of the two DBEs that specializes in this area of work is no longer certified as a DBE), this single occurrence is not sufficient to adjust the projection.

WSDOT does not consider DBE utilization in excess of the DBE goal established for a project to be race-neutral, where the same DBE is utilized to meet the DBE goal. The selection of the DBE is based upon its eligibility to be counted towards subcontracting goals and is therefore a race-conscious decision. Therefore, 0% is projected to be achieved through race-neutral measures and 2.39% through race-conscious goals.

#### **Public Involvement in the Overall Goal Setting Process**

WSDOT has consulted with minority and women's groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of DBEs and non-DBEs, the effects of discrimination on opportunities for DBEs, and the WSDOT's efforts to establish a level playing field for the participation of DBEs. We received replies from only a few organizations and their responses were typically limited by their

unfamiliarity with the type and nature of the contracts that were FAA-assisted or the existence of the large number of small airports in the State of Washington that are affected by these contracts. Since these organizations were not familiar with the solicitations for the consultant work, they wanted the notices of the solicitations so that they could circulate them to their membership. To address these concerns, Consulting Services will send the solicitation notices to the various minority, women's groups and community organizations. WSDOT will publish a statewide public notice of the proposed goal and methodology. The goals and methodology will be available for inspection during normal business hours at the Office of Equal Opportunity and at each WSDOT regional office for a period of 30 days following the date of the notice. Public comments will be accepted up to 45 days from the date of the notice. The information will also be provided to major state newspapers, minority-focused media, and trade publications and will be listed on WSDOT's, the Office of Minority and Women's Business Enterprises' and Associated General Contractors' websites.